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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,093	04/20/2004	Jose Guadalupe Cid-Aguilar	206,507	6009
38137 7590 03/30/2009 ABELMAN, FRAYNE & SCHWAB 666 THIRD AVENUE, 10TH FLOOR NEW YORK, NY 10017				
EXAMINER				
JOLDEN, ELIZABETH A				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
03/30/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/829,093

Applicant(s)

CID-AGUILAR ET AL.

Examiner

ELIZABETH A. BOLDEN

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Terminal Disclaimer

The terminal disclaimer filed on 8 April 2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 11/182,449 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Drawings

The original drawings received on 20 April 2004 are accepted by the Examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koyama et al., U.S. Patent Application Publication 2003/0114291 A1.

Koyama et al. teaches a glass composition having overlapping ranges of components and properties with instant claims 6-9. See Abstract and paragraphs [0031]-[0039], [0048]-[0050], and [0063].

Koyama et al. fails to teach any examples or ranges of components that are sufficiently specific to anticipate the instant claims. Overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges taught by the reference because overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

One of ordinary skill in the art would expect that a glass with overlapping compositional ranges would have the property as recited in claim 6.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landa et al., U.S. Patent 7,169,722.

Landa et al. teaches a glass composition having overlapping ranges of components and properties with instant claims 6-9. See Abstract, column 2, lines 44-67, column 3, lines 1-36, column 4, lines 5-36, and column 7, lines 25-58.

Landa et al. fails to teach any examples or ranges of components that are sufficiently specific to anticipate the instant claims. Overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges taught by the reference because overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

One of ordinary skill in the art would expect that a glass with overlapping compositional ranges would have the property as recited in claim 6.

Response to Arguments

Applicant's arguments filed 4 November 2008 have been fully considered but they are not persuasive.

Koyama et al. teach a colorless glass having overlapping ranges as the instant claims. See above rejection. Koyama et al. teach that TiO_2 is included in the glass composition in amounts that overlap the instant claims. See paragraph [0063] of Koyama et al. Applicants' argue that the level that Koyama et al. teach is a specifically low level, this is not found persuasive since the ranges recited in the instant claims and Koyama's paragraph [0063] overlap. Applicants' argue that the TiO_2 of Koyama is used to effect the light transmittance of the glass. Koyama et al. does disclose that the TiO_2 is used to reduce the Ultraviolet light transmittance. Applicants' argue that the valence state of the titanium, however, the applicants' own arguments state that the more stable state of the titanium is Ti^{+4} .

For the same reasons above the arguments towards the Landa et al. rejection are not persuasive since the ranges of Landa et al. overlap the instant claims. See above rejection

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH A. BOLDEN whose telephone number is (571)272-1363. The examiner can normally be reached on 10 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elizabeth A. Bolden
Examiner
Art Unit 1793

EAB
25 March 2009

/Karl E Group/

Primary Examiner, Art Unit 1793